

United States District Court  
Middle District of Florida  
Jacksonville Division

**BOBBY HIGHTOWER & RHODA HIGHTOWER,**

*Plaintiffs,*

v.

**No. 3:19-cv-219-J-32PDB**

**MACCLENNY TIRE AND LUBE, INC.,**

*Defendant.*

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**Order**

Bobby and Rhoda Hightower sue Macclenny Tire and Lube, Inc., for injuries from an accident allegedly caused by Macclenny's faulty tire installation. [Doc. 1](#). The Court previously granted Macclenny's motions to compel the Hightowers to submit to physical examinations by orthopedic surgeon Chaim Rogozinski, M.D, under [Federal Rule of Civil Procedure 35](#). [Docs. 26, 27, 31](#). The reasons for granting the motions are in the earlier order, [Doc. 31](#), and not repeated here.

Macclenny has filed two amended motions to compel physical examinations, explaining Dr. Rogozinski has not been providing reports in a timely manner and would be unlikely to submit a report by the February 6, 2020, disclosure deadline. [Docs. 32 and 33 at 3](#). Macclenny seeks an order requiring each Hightower to instead submit to a physical examination by neurosurgeon Eric Gabriel, M.D., on January 21, 2020, at 3:30 p.m. (Bobby), and 3:45 p.m. (Rhoda), at 3 Shircliff Way, Suite 714, Jacksonville, Florida 32204.<sup>1</sup> [Docs. 32, 33](#). The Hightowers have no objection. [Docs. 32 and 33 at 5](#).

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<sup>1</sup>In the body of the amended motions, Macclenny states the date for the examinations is October 21, 2020. [Docs. 32 and 33 at 3](#). This appears to be an error.

Because the Hightowers' physical condition is in controversy and Macclenny has satisfied the [Rule 35](#) requirements, the Court **grants** the motions, [Docs. 32, 33](#), and **directs** the Hightowers to appear at the examinations with Dr. Gabriel at the time and place described in the motions and this order. The parties may agree on a different date and time without need for further Court order.<sup>2</sup>

**Ordered** in Jacksonville, Florida, on January 2, 2020.



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PATRICIA D. BARKSDALE  
*United States Magistrate Judge*

c: Counsel of record

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<sup>2</sup>Like in the earlier motions, Macclenny does not detail the scope of the examinations. The Court again presumes they will involve general history taking and non-invasive neurologic and orthopedic testing.